

To: federal Court of Eastern Michigan  
From: Everson R. Francis  
Subject: Cause of Action

Case: 2:09-cv-13510  
Assigned To : Cleland, Robert H  
Referral Judge: Randon, Mark A.  
Assign. Date : 9/4/2009 @ 10:19AM  
Description: CMP FRANCIS V  
PICKWICK APARTMENTS (SS)

Dear Honourable Judge

I am Everson R. Francis (law student) and I am suing Pickwick apartments, Glen heritage townhomes, and American Profit recovery.

These businesses negligently send out incorrect information to the credit bureaus about me owing them money since November 2007 until now 2009; they said I owe \$1832.13.

I actually over paid for this lease and they wrote me back a cheque for the difference but they the defendants forgot to make a record of it. Now, two years after they realize their mistake and apologize for making such a gross negligence for two years. After all this I could not get loans because of this to finish law school, I could not get to purchase a car because of the defendants gross negligence, I could not get a safe apartment in Baltimore (city with the highest crime rate) because of the defendants gross negligence for two years, etc. Now I would like to sue for damages of up to \$2000000 according to the Fair Credit Reporting Act (FCRA).

This version of the FCRA includes the amendments to the FCRA set forth in the Consumer Credit Reporting Reform Act of 1996 (Public Law 104-208, the Omnibus Consolidated Appropriations Act for Fiscal Year 1997, Title II, Subtitle D, Chapter 1), Section 311 of the Intelligence Authorization for Fiscal Year 1998 (Public Law 105-107), the Consumer Reporting Employment Clarification Act of 1998 (Public Law 105-347), Section 506 of the Gramm-Leach-Bliley Act (Public Law 106-102), Sections 358(g) and 505(c) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) (Public Law 107-56), and the Fair and Accurate Credit Transactions Act of 2003 (FACT Act) (Public Law 108-159).

The provisions added to the FCRA by the FACT Act will become effective at different times. In some cases, the provision includes its own effective date. In other cases, the FACT Act provides that the effective dates be prescribed by the FTC and Federal Reserve Board. See 16 CFR Parts 602. (69 Fed. Reg. 6526; February 11, 2004) (69 Fed. Reg. 29061; May 20, 2004).

However, I cannot finish law school because I was turned down for all my loans because the loan company said for two years the defendants reported the inaccurate information that I did not pay my debt and my account is delinquent. Pickwick apartments now Glen Heritage Townhomes and American Profit recovery also violated the law by submitting multiple delinquent points to my credit report per month for two years according to my credit monitoring program I have at bank of America, this is a violation of the FCRA 15 U.S.C. § 1681 et seq..

Pickwick apartments, Glen townhomes, and American Profit recovery was notified of this negligence; American Profit recovery stated Pickwick apartments now Glen townhomes told them to proceed with the recovery while Pickwick apartments now Glen heritage townhomes said they never said to proceed with the recovery. Pickwick apartment also known as Glen Heritage townhomes was notified of the problem and did nothing to correct this situation.

Pickwick apartments, Glen townhomes, and American Profit recovery now realize that they ruin my life by doing such a negligent act and are now apologizing. But will their apologies pay for school or the cars or the apartment or the things I was turned down for because of their negligence? NO.

FCRA states Instead of contacting the credit reporting agency, contact the creditor directly. The FCRA states that the disputed information need to be reported by the creditor to the credit reporting agency, including a note that you are disputing the information if you contact a creditor and indicate that they have reported information incorrectly to your credit report. In any case, if the information is found to be inaccurate or an error, it must be corrected on your report or removed.

FCRA also states there must be a settlement and if it is not satisfactory then higher authorities also exist. A couple options exist. After following the dispute process and the results are unsatisfactory to you, you can then file a dispute with the National Consumer Assistance Center. If you believe the credit bureau has violated the FCRA, contacting your Attorney General's Office is the last option. You are able to sue the creditor / credit bureau in either the state or federal court. Should you win, all of your attorney fees and damages would eventually be reimbursed to you.



34405 W. 12 Mile Road, Ste 379 Farmington Hills, MI 48331-5608

Everson Francis  
20160 Westpoint Ave  
Romulus MI 48174-9436

Client Name: Heritage Glen Townhomes  
Account Number: 257928

August 19, 2009

**Current Balance: \$1,832.13**

**Phone Number: (877) 588-8577**

Heritage Glen Townhomes has requested our involvement in the above unresolved account. We wish to encourage the resolution of your account. We understand there may be a misunderstanding and would hope you utilize the verification process as described below. Our request for resolution does not affect your right to dispute this debt.

Send correspondence, including payments, to American Profit Recovery at 34405 W. 12 Mile Road, Ste 379, Farmington Hills, MI 48331-5608.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor if different from the current creditor.

American Profit Recovery (877) 588-8577  
Business Hours: 8am - 5pm EST M-F

**THIS HAS BEEN SENT TO YOU BY A COLLECTION AGENCY**

\*\*\*Attach Lower Address and Return with Payment\*\*\*

0014PR0908000

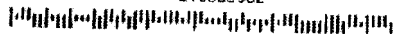
34405 W. 12 Mile Road Ste 379  
Farmington Hills MI 48331-5608

RETURN SERVICE REQUESTED

Customer Name: Heritage Glen Townhomes  
Account Number: 257928  
Amount Due: \$1,832.13

August 19, 2009

257928-00800- 210555082



Everson Francis  
20160 Westpoint Ave  
Romulus MI 48174-9436

**MAKE CHECK OR MONEY ORDER PAYABLE TO:**  
**American Profit Recovery**  
34405 W 12 Mile Rd Ste 379  
Farmington Hills MI 48331-5608



To pay with MoneyGram, find location at [www.moneygram.com](http://www.moneygram.com)  
Receive Code: 5377 Company: American Profit Recovery  
City: Farmington Hills State: MI Account Number: 257928

### Legal Questions

- Is Pickwick apartments/Glen Heritage townhomes liable?
- Is American Profit Recovery liable?
- Whether the legislative history indicates any legislative intent, explicit or implicit, either to create or deny such a remedy?
- Whether the implication of a private remedy would frustrate the underlying purposes of the legislative scheme?
- And as I am an international student am I entitle for a very high damage because now I may have to leave the country as my F-1 status will be violated because I am not in school as a result of the defendants' gross negligence.

In *Dornhecker v. Ameritech Corporation*, the court held that the FCRA provides individual consumers with a private right of action against a furnisher of credit information for failing to properly comply with its duties. Analyzing the case under the four-factor test set forth by the Supreme Court in *Court v. Ash* for determining whether a private remedy is implicit in a statute not expressly providing for one, the court held that individual consumers do have a private right of action against a furnisher of information under the FCRA.

The court next looked at the legislative history and found that Congress did not intend to limit civil liability under 15 U.S.C. sections 1681s-2(b). The court also found that a private remedy does not frustrate the purpose of the FCRA's scheme, noting that other provisions of the FCRA provide consumers with a private right of action. Lastly, Congress expressly intended for the FCRA to co-exist with state consumer protection laws.

In *Geeslin v. Nissan Motors*, the court ruled that the 1996 FCRA amendment allowed a claim on the FCRA duty to update and correct information, but recognized no claims that arose prior to September 30, 1997. *Campbell v. Baldwin* involved a case where the court ruled that furnishers of information who violated 15 U.S.C. section 1681s-2(b) are not exempt from civil liabilities.

The *Ryan* court also discussed the plaintiff's allegation of negligent non-compliance with the FCRA. Section 1691o(a) says that any person who is negligent in failing to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer for damages and costs.

In *Olexy v. Interstate Assurance Co.*, the plaintiff asserted various claims for: willful, malicious and intentional interference with contract, business relation and prospective advantage; fraud; defamation; intentional infliction of emotional distress; and violation of the FCRA. The plaintiff contended that the defendant published and reported a false claim of indebtedness to a credit reporting agency. The court found that the cause of

action could be read as being asserted under 15 U.S.C. section 1681s-2(b), which imposes a duty to investigate and report incomplete or inaccurate information to consumer reporting agencies upon notice of a dispute. The court also affirmed that there is a private right of action by a consumer for a violation of such subsection, citing Dornhecker. Thus, the court denied the defendant's motion to dismiss for lack of standing.

Damages calculator

- Lost of Loans for law school because of defendants negligence \$500,000
- Emotional stress \$500,000
- Lost of cars and transportation because of defendants negligence \$100,000
- Staying with friends and lost of apartment \$100,000
- Having to leave America so I may not violate my F-1 status \$100,000
- Putting a hold to my life so I could not finish school when I am suppose to and provide for my family, my son, and my fiancé: \$2000000
- Ruining my credit score which was 702 to now 450: \$250,000
- Making me live in a high crime area because they refuse to send a letter confirming my total payment for my entire lease, even though they send me a refund cheque saying I over paid: \$1000000
- Defamation \$500,000
- Violation of FCRA \$1000000
- Lost wages \$200,000
- Taking my time to file this case by myself \$500,000
- Harassment of debt collector \$200,000
- Debt collector calling me, I calling back and also calling pickwick apartment now Glen Heritage Townhomes \$10,000
- Horrible service \$20,000
- Storage of my things because I did not get my loans because of their negligence \$20,000 and growing
- United States embassy fees \$10,000
- Plane tickets to fly back home \$10,000
- Money for my country as I could not finish when I am suppose too to make a difference in my country \$100,000
- Miscellaneous expenses \$500,000

## CIVIL COVER SHEET

County in which action arose WAYNE

44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

EVANSON R. FRANCIS(b) County of Residence of First Listed Plaintiff WAYNE  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

## DEFENDANTS

PICKWICK apartments  
GLEN HERITAGE TOWN HOMES  
AMERICAN PROFIT RECOVERYCounty of Residence of First Listed Defendant WAYNE  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input checked="" type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |
| <b>REAL PROPERTY</b><br><input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property   | <b>CIVIL RIGHTS</b><br><input type="checkbox"/> 441 Voting<br><input type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 Amer. w/Disabilities - Employment<br><input type="checkbox"/> 446 Amer. w/Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights   | <b>PRISONER PETITIONS</b><br><input type="checkbox"/> 510 Motions to Vacate Sentence<br><b>Habeas Corpus:</b><br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus & Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition   |   |   |

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

FELAGROSS NEGLIGENCE (see attached type doc)

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$ 3000000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

April 8, 2009

## FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: \_\_\_\_\_

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Notes :

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